

JEFFREY G. PITTELL
ATTORNEY AT LAW

MAHER & PITTELL, LLP
299 East Shore Road
Great Neck, New York 11023
www.jpittell.com

Tel (516) 829-2299
Fax (516) 977-3003
Email jp@jpittell.com

July 10, 2008

Hon. Harold Baer, Jr.
U.S. District Court
500 Pearl St
New York, NY 10007

Re: *U.S. v. Rodriguez*
07 cr 677 (HB)

Dear Judge Baer:

We are counsel to Louis Rodriguez, the defendant in the above referenced matter.

Please accept this letter in lieu of a formal sentencing memorandum submitted on behalf of Mr. Louis Rodriguez.

Comments to the Presentence Investigation Report ("PSR")

We have reviewed the PSR. We do not have any objections to the calculations of the applicable sentencing guidelines.

Requested Sentence

As indicated in the PSR, Mr. Rodriguez pleaded guilty to the Indictment which charged him with two counts of distribution of cocaine in violation of 21 U.S.C. §841(b)(1)(C).

Mr. Rodriguez' advisory sentencing guideline range is 41 to 51 months. By this letter, we respectfully request the Court consider sentencing Mr. Rodriguez to a sentence of 33 months.

We believe this sentence appropriate for several reasons.

First, under 18 U.S.C. §3553(a)(1), prior to imposition of a sentence, a court shall consider the "history and characteristics of the defendant." In support of this factor, attached hereto are character letters submitted on behalf of Mr. Rodriguez. These letters are from:

Letter from:	Relationship to Mr. Rodriguez
Pedro Mejia	Father
Ana Javier	Close family friend
Ramon Medina	Stepfather
Silvia Ponce	Fiancé
Nicolasa de los Santos	Mother

Collectively, these letters demonstrate Mr. Rodriguez is held in high regard by his family. The letters show he is very close to his parents, mother, sisters, brother, son, step-daughter and relatives. His family acknowledges that he violated the law. However, they request the Court consider a sentence that will enable both his younger sister (age 10), and his young son, to be reunited with him.

Second, in consideration of 18 U.S.C. §3553(a)(2)(A), we submit this sentence will adequately reflect the seriousness of the offense, promote respect for the law and provide just punishment for the offense.

Third, in consideration of 18 U.S.C. §3553(a)(2)(C), there is no concern about protecting the public from further crimes. Following the completion of his sentence, Mr. Rodriguez (who is not a citizen of the United States) will be deported to the Dominican Republic. Accordingly, there is no need for excessive detention to protect the public.

Fourth, in consideration of 18 U.S.C. §3553(a)(2)(D), this sentence will provide substantial time for Mr. Rodriguez to receive needed educational and vocational training.

Fifth, we are requesting a sentence of 33 months (a sentence 8 months below the advisory minimum guideline sentence of 41 months) to ensure Mr. Rodriguez will receive credit for the time he has been in federal custody.

Mr. Rodriguez was arrested on April 24, 2007. He has been in federal custody since that date. At the time of arrest, he was in custody of the New York City Department of Corrections on an open state matter that was pending in Queens County. Prior to his arrest, he had already pleaded guilty on the state case and was awaiting sentence. On December 5, 2007, he was sentenced to **time served** on the Queens case.

However, when the Bureau of Prisons calculates Mr. Rodriguez' release date, he will not receive credit for the approximately 8 months that he was in federal custody from April to December. The Bureau of Prisons will not give him credit for this 8 months' jail time (even though he was in federal custody) because the BOP will consider this time a part of his state sentence which will be deemed served until December 5, 2007 (the date he was sentenced to time served). *See* BOP

Program Statement 5880.30, Champetre VI(7)(b)(2) states, "Presentence time credit shall not be given for any time spent serving another sentence, either federal or non-federal . . ."

Sixth, we are, in essence, requesting a sentence within the guidelines (with credit for time already in federal custody). Accordingly, in consideration of 18 U.S.C. §3553(a)(6), a sentence of 33 months will not result in disparities of sentences between Mr. Rodriguez and other defendants with similar conduct and similar records.

Seventh, we request the Court take into consideration the affect of the chronology of the offense conduct. Initially, during October, 2006, Mr. Rodriguez sold 300 grams of cocaine to an undercover police officer. Under the circumstances of that sale – where the drugs were sold directly to an undercover officer – there was ample evidence by which Mr. Rodriguez could have been arrested, prosecuted and convicted. Had he been arrested at that time, his base offense level would have been 22 instead of 24. As such, his total offense level would have been 19 instead of 21. Thereafter, the applicable guideline range would have been lowered to 33 - 41 months. In light of this circumstance, we request the Court to consider that the primary effect of the second sale was to increase Mr. Rodriguez' base offense to the next higher level. Given the strength of the case, based upon the first sale alone, the second sale did not significantly contribute to the likelihood of Mr. Rodriguez' conviction.

Conclusion

Based upon the foregoing reasons, we request the Court sentence Mr. Rodriguez to a term of 33 months imprisonment.

Respectfully submitted,



Jeffrey G. Pittell

cc: AUSA Christopher LaVigne
Louis Rodriguez

LETTER OF REFERENDUM

DEAR JUDGE HAROLD BAER:

I am a 48 year old Home attendant in the Bronx, New York. I have lived here for the past 15 years; I am an active member of my community and the mother of four children. I am a law abiding citizen and a tax payer. I am the closest friend of the family and I have known him since he was a toddler.

I am making this letter to the Court on his behalf for sentencing purposes because I feel there are certain mitigating circumstances about him that should be considered by the Court at the time of sentencing that may warrant compassion and leniency.

I understand that Luis Mariel has broken the law and he must be punished. However, it hurts me so much to see him in such position because I have always known him to be a kind, caring and gentle man. I say this not just because he is like a son to me but because it is the truth. My family cares a lot about him; he is a good young man. He may have gotten involved in something he should not have, but I believe that he has suffered much and he has learned his lesson and is ready to live a respectful and law abiding life.

I plead for your leniency so that he can have the opportunity to redeem himself by becoming contributing member of society, a father to his small child, and even the possibility of pursuing the American dream.

Sincerely yours,


Ana M. Javier

Ramon Medina
100 Oraton Street
Newark NJ 07104

April 21, 2008

Honorable
Judge Harold Baer

REF: CASE No. 59936054 LUIS RODRIGUEZ

My name is Ramon Medina, 47 years old. I live at 100 Oraton Street, Newark, NJ 07104. I have lived in the United States of America for over 20 years. I am a law abiding legal resident and tax payer. I am the stepfather of LUIS RODRIGUEZ.

I am writing this letter to the court on my stepson's behalf for sentencing purposes because I feel there are certain mitigating circumstances about my son that should be considered by the court at the time of sentencing that may warrant compassion and leniency.

I understand that my stepson LUIS RODRIGUEZ, case No. 59936054 has broken the law and must be punished, however, it hurts me such much to see my stepson in such position because he is too young and his mother and I made every effort to raise him to be a law abiding and a gentleman. I have said this not because he is my beloved son, but because it is the truth. His sister, 10 years old loves her brother because he has always been a darling to her. He may have gotten involved in something he should not have to but I believe he has suffered so much and have learned his lesson and I think he is ready to live a respectful, law abiding and a productive life.

I beg your mercy and consideration on my stepson's sentencing to allow him to reunite with his family, which miss him so much.

Thank you for time, kindness and consideration on this case.

Respectfully yours,


Ramon Medina


JUANA CASTRO-LEBRON
NOTARY PUBLIC STATE OF NEW JERSEY
MY COMMISSION EXPIRES 5/12/08

NOTARY PUBLIC

Pedro Mejia
40 Camp Lane
Fairfield NJ 07004

April 24, 2008

Honorable
Judge Harold Baer

REF: CASE No. 59936054 LUIS RODRIGUEZ

My name is Pedro Mejia, 35 years old. I live at 40 Camp Lane, Fairfield, NJ 07004. I am a law abiding US Citizen and a tax payer.

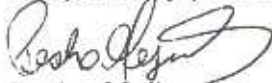
I have taken this opportunity to write you this letter on behalf of Mr. Rodriguez because I have known him for over eight years and I would like to respectfully request that the court take some circumstances at the time of sentencing that may warrant compassion and leniency.

I understand that LUIS RODRIGUEZ has broken the law and must be punished, however, his family has been hurt so much to see him going through this time in this life. I know his parents for so many years and know they have made every effort to raise him to be a good boy. He may have gotten involved in something he should not have to but I believe he has suffered so much and have learned his lesson and I think he is ready to live a respectful, law abiding and a productive life.

I am begging your mercy and consideration on this case's sentencing to allow him to reunite with his family, which miss him so much.

Thank you for time, kindness and consideration on this case.

Respectfully yours,



Pedro Mejia

NOTARY PUBLIC

JUANA CASTRO-LEBRON
NOTARY PUBLIC STATE OF NEW JERSEY
MY COMMISSION EXPIRES 5/12/08

York
11, 2008

Judge : HAROLD BAER

My name is Nicolasa de los Santos, I am 43 years old, I live at 2710 Webb Ave apt 5H Bronx New York. I have lived here since 1996, am divorced and the mother of two children. I am a law abiding US legal resident. I am the mother of : LUIS RODRIGUEZ, case No. 59936054.

I am making this letter to the court on my son Luis Rodriguez behalf for sentencing purposes because I feel there are certain mitigating circumstances about my son that should be considered by the court at the time of sentencing that may warrant compassion and leniency.

I understand that my son : LUIS RODRIGUEZ, case No. 59936054, has broken the law and must be punished. However, it hurts me much to see my son in such a position because he is so young and I raised him to be a law abiding and a gentle man. I said this not because he is my beloved son but, because is the truth. My daughter which is 10 years old love her brother, he always have been a darling to her. He may have gotten involved in something he should have not have but I believe that he has suffered much and learned his lesson and is ready to live a respectful, law abiding and productive life.

Please give you to have mercy on my son and give a light sentence, to allow him to be reunited with me and his 10 year old little sister which miss him so much.

Thank you for your time and kindness and consideration of these factors

Sincerely yours,

Nicolasa de los Santos
Nicolasa de los Santos

State of New York
County of the Bronx

Sworn before me this 10 day of April 2008

April 14, 2008

Judge : HAROLD BAER

My name is SILVIA A PONCE , I am 23 years old, I live at 2775 Kingsbridge
Avenue Apt A6A, Bronx New York 10463. I have been living in the United States
for more than 10 years . I am the mother of Luis Rodriguez's Son
His child name is : Angel David Ponce. He is 18 months old.
He is a abiding US legal immigrant .

I am making this letter to the court on behalf of Luis Rodriguez for
humanizing purposes because as the mother of my child I want that my
son will be raised by his father. And I would like that you
give him a second chance, so my son will be with his father .

Therefore, as the mother of LUIS RODRIGUEZ' SON, I beg you to have mercy
on him and give him a light sentence, that allow him to be reunited with me
and his beloved son, and take us to the park to play with the child .

Thank you for your understanding

Sincerely yours,

Silvia A. Ponce
Silvia Ponce

State of New York
County of the Bronx

Sworn before me this 14 day of April 2008

Manuel Costa